

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs August 15, 2006

**RANDY L. MAY v. HOWARD W. CARLTON, WARDEN**

**Direct Appeal from the Circuit Court for Johnson County**  
**No. 4781     Lynn W. Brown, Judge**

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**No. E2006-00308-CCA-R3-HC - January 29, 2007**

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The petitioner, Randy L. May, appeals the summary dismissal of his petition for habeas corpus relief. He argues that the original judgments erroneously rendered him infamous; therefore, the judgments were void. After careful review, we conclude that a judgment that erroneously pronounces the petitioner infamous is not a colorable claim entitling him to habeas corpus relief. We affirm the trial court's dismissal of the petition and denial of relief.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed**

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which ALAN E. GLENN, J., and J. S. (STEVE) DANIEL, SR. J., joined.

Randy L. May, Mountain City, Tennessee, Pro Se.

Paul G. Summers, Attorney General and Reporter and Leslie E. Price, Assistant Attorney General, for the appellee, State of Tennessee.

**OPINION**

Facts and Procedural History

The petitioner pled guilty to first degree murder and assault with intent to commit first degree murder in January 1981. The crimes were committed in July 1980. He received two concurrent life sentences and is presently incarcerated. He filed this pro se petition for habeas corpus relief claiming he was erroneously pronounced infamous and had been wrongfully denied his right to vote. The trial court summarily dismissed the petition, and this appeal timely followed.

Analysis

Initially, we note that the petitioner is correct that, in 1980, homicide was not an infamous crime. See T.C.A. § 40-2712 (1980); Williams v. State, 520 S.W.2d 371, 376 (Tenn. 1974).

However, the Tennessee Supreme Court has twice held that a judgment erroneously pronouncing a defendant infamous should be modified to delete the portion referring to infamy. Humphreys v. State, 531 S.W.2d 127, 139 (Tenn. 1975); Williams, 520 S.W.2d at 376. We conclude that an erroneous pronouncement of infamy does not strike at the jurisdictional integrity of the sentence (life imprisonment) or the conviction (first degree murder).

Further, the Tennessee Court of Appeals has held: “We think the laws disenfranchising convicted felons are simply remedial statutes and are not laws that invoke or increase criminal penalties. Therefore, they are not ex post facto laws within the prohibition of the State or Federal Constitution.” Daniel B. Taylor v. State, No. 01-A-01-9707-CH-00338, 1999 Tenn. App. LEXIS 90, at \*5 (Tenn. Ct. App. Feb. 9, 1999). This case makes it clear that a statute disenfranchising felons is not barred by ex post facto prohibitions. The defendant in the instant case is infamous, and any denial of voting rights has been lawful.

Article I, § 15 of the Tennessee Constitution guarantees the right to seek habeas corpus relief. Tennessee Code Annotated sections 29-21-101 et seq. codifies the applicable procedures for seeking a writ. While there is no statutory time limit in which to file for habeas corpus relief, Tennessee law provides very narrow grounds upon which such relief may be granted. Taylor v. State, 995 S.W.2d 78, 83 (Tenn. 1999). A habeas corpus petition may only be used to contest void judgments which are facially invalid because: (1) the convicting court was without jurisdiction or authority to sentence a defendant; or (2) the defendant’s sentence has expired. Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). A habeas corpus court may properly choose to dismiss a petition for failing to comply with the statutory procedural requirements. The defendant’s petition does not allege his sentence has expired nor any jurisdictional infirmity in his conviction judgments that set forth a basis for habeas corpus relief. Accordingly, we affirm the trial court’s dismissal.

### Conclusion

Based on the foregoing and the record as a whole, we affirm the judgment of the trial court.

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JOHN EVERETT WILLIAMS, JUDGE